



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/330,963

06/11/99

MCNUTT

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EXAMINER

CHERUBIN, Y

ART UNIT

PAPER NUMBER

3713

DATE MAILED:

01/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. 09/330,963	Applicant(s) MCNUTT ET AL.	
	Examiner Yveste G. Cherubin	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 1999.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

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|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 20) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This communication is in response to the Application filed in June 11, 1999 in which claims 1 – 32 are pending.

#### ***Drawings***

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 15-29, 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenner et al. (US Patent 5,830,068).

As per claims 1 and 17, Brenner et al. discloses a system and method of use for interactive wagering, 1:6-8 comprising a data management facility (380) that stores data relating to wagering account information, 19:27-34, and a plurality of types of user interface systems (130), 7:43-49; (154); (168), 8:57-62; (420), 21:5-8; (394), 19:35-52; (372), 17:40-47; that receive the wager account information stored in the database, that receive wager information from users, and that provide the wager account information received to the users. Regarding claims 2–6, and 18–22, Brenner discloses a television wagering control system that provides the wager account information to a television

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distribution system, 2:39-42, 3:37-47 wherein the television distribution system is a cable system, 2:37-38, 3:38-48, a satellite television system, 3:49, 4:10-12, 6:63-67, 7:1-3, wherein the television wagering terminal is a cable television set-top box (434, 442, Fig 30) 21:48-53, 22:7-22, a satellite television receiver, 17:31-47, 18:15-19. As per claims 7-9 and 23-25, Brenner discloses a television wagering control system receiving the wager information from the television wagering terminal via a telephone system connection, 8:28-39, via cable system connection, 6:55-62, a computer network connection, 7:42-49. Regarding claims 10 and 26, Brenner mentions the capability for users to interact with a voice-actuated controller system, 7:25-33, 21:5-8, 30:33-34, 32:51-53. As per claims 11-12 and 27-28, transmitting transactions over a voice-actuated controller system using telephone key depressions or verbal commands is known. As per claims 13, 15-16 and 29, 31-32, Brenner discloses a computer wagering control system providing wager account information through wireless connection, 7:32-34, telephone connection (390) and network connection (392), 19:27-63.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner'068.

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As for claims 14 and 30, Brenner discloses the claimed invention as substantially as shown above. Brenner discloses using network computer, telephone to place wager, but does not disclose using the Internet itself. However, it's common knowledge that the Internet is the largest computer network ever existed and that one needs a computer, a modem, a telephone line to get access to it, and for the last few years the Internet has become a popular means of communications for home, work site, etc., therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the Internet access into the Brenner's type system (since Brenner's system already got all the right connections) in order to facilitate data transactions.

6. The prior art of record and not relied upon is considered pertinent to the Applicant's disclosure. Each reference disclosed below is relevant to one or more of the Applicant's claimed invention.

US Patent No. 5,851,149 to Xidos et al. which teaches "Distributed Gaming System".

US Patent No. 5,535,321 to Massaro et al. which teaches "Method and Apparatus for variable complexity user interface in a data processing system".

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

January 10, 2001

ygc



JESSICA J. HARRISON  
PRIMARY EXAMINER

**ATTACHMENT TO AND MODIFICATION OF**  
**NOTICE OF ALLOWABILITY (PTO-37)**  
**(November, 2000)**

**NO EXTENSIONS OF TIME ARE PERMITTED TO FILE CORRECTED OR FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION**, notwithstanding any indication to the contrary in the attached Notice of Allowability (PTO-37).

If the following language appears on the attached Notice of Allowability, the portion lined through below is of no force and effect and is to be ignored<sup>1</sup>:

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to comply will result in ABANDONMENT of this application. ~~Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).~~

Similar language appearing in any attachments to the Notice of Allowability, such as in an Examiner's Amendment/Comment or in a Notice of Draftperson's Patent Drawing Review, PTO-948, is also to be ignored.

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<sup>1</sup> The language which is crossed out is contrary to amended 37 CFR 1.85(c) and 1.136. See "Changes to Implement the Patent Business Goals", 65 Fed. Reg. 54603, 54629, 54641, 54670, 54674 (September 8, 2000), 1238 Off. Gaz. Pat. Office 77, 99, 110, 135, 139 (September 19, 2000).